

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

OUTDOOR SPORTSMAN GROUP, LLC.

PLAINTIFF

vs.

NO: 4:08CV00621 BSM

EST, LLC.

DEFENDANT

ORDER

The court conducted a show-cause hearing today on plaintiff's motion to hold a third-party witness, John McGinnis, in contempt. The parties appeared by counsel, and McGinnis appeared in person and was represented by counsel.

Having reviewed the file and heard the arguments of counsel in open court, the court finds that McGinnis failed to appear at a deposition, despite being subpoenaed by the plaintiff; that McGinnis failed to appear for his deposition based on the instructions of in-house counsel for his employer, Maurice Sporting Goods, which is not a party to this action; and that plaintiff incurred court reporter costs in the amount of \$103.20 due to McGinnis's failure to appear. The court further finds that McGinnis has agreed to reimburse plaintiff its costs in the amount of \$103.20 and that, based upon the agreement of plaintiff, McGinnis should not be held in contempt for failing to appear at the deposition.

The court orders McGinnis to make himself available for deposing within fifteen days from the date of this order; grants plaintiff fifteen days from the date of this order to depose McGinnis; and grants plaintiff fifteen days from the date of this order to subpoena all documents it desires from the appropriate party at Maurice Sporting Goods.

Plaintiff shall have thirty days from the date of McGinnis's deposition to file a supplemental brief addressing the issue of jurisdiction; and defendant shall have fifteen days from the date that plaintiff's supplemental brief is filed to respond.

Accordingly, the motion for contempt (Doc. No. 29) is denied.

IT IS SO ORDERED this 4th day of March, 2009.

A handwritten signature in cursive script, reading "Brian S. Miller".

UNITED STATES DISTRICT JUDGE